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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,353	03/27/2002	Matthew Gray McGoff	CM2415M	1365

27752 7590 10/14/2003

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EXAMINER

LE, HOA T

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 10/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/089,353

Applicant(s)

MCGOFF ET AL.

Examiner

H. T. Le

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 and 24 is/are allowed.
- 6) ☒ Claim(s) 16-21, 23 and 25-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16-20 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schebece (US 4,181,632).

Claims 16 and 17: Schebece teaches an elastic detergent bar comprising a synthetic organic detergent (i.e. active ingredient) (col. 1, lines 49-63), gelatin (i.e. polymeric material) and a plasticizer (col. 5, lines 22-25); and a stabilizer (col. 5, lines 58-59). This is a detergent bar for bathing or showering, and thus the bar is adapted to deliver the active ingredient in an aqueous environment (i.e. bath/shower water). The detergent bar is necessarily water dispersible and water soluble.

Claim 18: Gelatin has a glass transition temperature below 30 °C.

Claim 19: is considered met by inherency. An elastic bar soap has a low elastic modulus.

Claim 20: col. 5, line 59.

Claim 23: Gelatin is a water soluble polymer.

3. Claims 16-21, 23, 25-27, and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Carson (US 4,328,131).

Claims 16 and 17: Carson teaches an elastic detergent bar comprising a synthetic organic detergent (i.e. active ingredient) (col. 2, lines 11-18), gelatin (i.e. polymeric material) and a plasticizer (col. 6, lines 21-25); and a stabilizer (col. 7, lines 14-15). This is a detergent bar for bathing or showing, and thus the bar is adapted to deliver the active ingredient in an aqueous environment (i.e. bath/shower water). The detergent bar is necessarily water dispersible and water soluble.

Claim 18: Gelatin has a glass transition temperature below 30 °C.

Claim 19: is considered met by inherency. An elastic bar soap has a low elastic modulus.

Claim 20: col. 7, lines 14-15.

Claim 21: col. 7, lines 10-17.

Claim 23: Gelatin is a water soluble polymer.

Claim 25: col. 2, lines 18-19.

Claim 26: The density of the elastic bar is the same as the claimed product (see rejection under claim 25) and thus it is necessarily the elastic bar taught by Carson possesses the same cell structure as claimed.

Claims 27 and 29: Carson teaches a process of making an elastic bar by mixing a synthetic organic detergent in a gelatin and a plasticizer, introducing a gas into said mixture, and adding a stabilizing agent. The process also comprises a step of water removal by drying or vacuum treatment. See col. 2, lines 33-44. This is a detergent bar for bathing or showing, and thus the bar is adapted to deliver the active ingredient in an aqueous environment, i.e. wash water.

Claims 30 and 31: col. 7, lines 10-20.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carson as applied to claims above, and further in view of the discussion below.

Carson discloses the claimed invention as discussed immediately above. At col. 8, lines 50-60, Carson suggests that different operative mixing sequences can be adopted. Therefore, it would have been obvious to one having ordinary in the art that the order of ingredient mixing as recited in claim 28 can be envisioned because it has been suggested by Carson that all different mixing sequences are equivalent. In addition, applicants have not stated whether the order of the ingredient mixing/contact is for any particular purpose or solves any particular problem.

*Allowable Subject Matter*


6. Claims 22 and 24 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: None of the references of record, singly or in combination, teach or suggest elastic article having specific stabilizing agent or particle size as claimed.

The Buchanan and MdDermott references (US 4,618,629 and US 5,543,439 respectively) are considered pertinent references (USC 102 equivalent) by the European search report. By "said article is adapted to deliver said active ingredient to an aqueous environment" it is defined as that "the article is unstable upon contact with water to just deliver the active ingredient (see page 2, lines 14-16 and page 3, lines 1-2). In contrast, the article taught by Buchanan is not adapted to deliver the fragrance in an aqueous environment; the fragrance is designed to deliver the active ingredient in the air (a gaseous environment). Similarly the McDermott et al reference teaches an article wherein the active ingredient is delivered in the air (gaseous environment), not aqueous environment.

8. Other references are cited as art of interest.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 703-308-2415. The examiner can normally be reached on 10:00 a.m. to 8:30 p.m., Mondays to Friday.

  
H. T. Le  
Primary Examiner  
Art Unit 1773